HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No. 10640 OF 2004

Date: 19-04-2007.

Between :

M/s. Srivijayavisakha District Milk Producers Mutualy Aided Co-Operative Union Limited (Visakha Dairy), Natavvapalem, Visakhapatnam, Rep. By its Managing Director, Mr. N.V. Venkata Rao

.....Petitioner

And

The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad and another

.....Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. 16270 OF 2004

ORA.L ORDER

(Per the Hon'ble Sri Justice Bilal Nazki)

It is agreed by both the learned counsel for the petitioner and the learned Government Pleader that the issue raised in this Writ Petition is no longer *res integra* since the same is covered by a judgment of this Court in ***Bhushan Gupta (A.B.C. Proprietor), Vijayawada Vs. State of Andhra Pradesh and others***[1]***.***

Following the said judgment, we allow the writ petition and quash the impugned proceedings dated 9.6.2004 issued by the Commissioner and consequently the notice of provisional monthly assessment and demand, dated 2.7.2004 to the extent of proposing to impose tax on the skimmed milk powder is declared illegal and ultra vires. No order as to costs.

Bilal Nazki, J.

Nooty Ramamoahana Rao, J.

April 19, 2007
MAS.

[1] 42 APSTJ 82